

## REMARKS

The Office Action of August 29, 2002, has been carefully considered.

It is noted that an Abstract of the Disclosure is required.

Furthermore, a legend indicating that Figure 1 is prior art is required.

Claims 1-3 and 5-8 are rejected under 35 USC 112, second paragraph.

Claims 1-3 and 5-11 are rejected under 35 USC 102(b) over the patent to Morris.

In connection with the Examiner's requirement for an Abstract of the Disclosure, applicant has enclosed herewith a new Abstract of the Disclosure on a separate sheet.

In connection with the drawings, applicant has enclosed herewith a Letter With Proposed Drawing Changes in which Figure 1 is proposed to be changed to include the legend –Prior Art–. In view of this change it is respectfully submitted that the rejection to the drawings is overcome and should be withdrawn.

In view of the Examiner's rejections of the claims applicant has amended independent claim 1.

It is respectfully submitted that the claims now on file particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicant has amended independent claim 1 to address the instances of indefiniteness cited by the Examiner.

In view of these considerations it is respectfully submitted that the rejection of claims 1-3 and 5-8 under 35 USC 112, second paragraph, is overcome and should be withdrawn.

It is further submitted that the claims presently on file differ essentially and in an unobvious, highly advantageous manner from the constructions disclosed in the reference.

Turning now to the reference, it can be seen that Morris discloses a method and apparatus for cleaning or grading sand. The apparatus of Morris is a counter-current particle washing device having a fluidized bed housing attached to the main washing device. The final and overall separation condition takes place in the fluidized bed housing. There are some vertical plates present in the fluidized bed housing, however, there is no teaching that these plates cause particles to be segregated above or below the plates according to their size or density, as in the presently claimed invention.

Furthermore, although Morris discloses arrays of inclined plates 25, 26, 27, these arrays are not mounted within the fluidization chamber as in the presently claimed invention. Additionally, the arrays of inclined plates of Morris are not positioned so that particles elutriated by the fluidization fluid within the chamber are caused to be segregated above or below the plates according to their size or density, as in the presently claimed invention. A further fundamental distinction between the present invention and Morris is that in Morris the flow between the parallel inclined plates is in a downward direction whereas in the present invention the flow is primarily in an upward direction. The present invention is not a counter flow device but instead has a flow only in the upward direction. There is no outlet at the bottom of the device as in Morris.

Thus, it is respectfully submitted that Morris does not anticipate the claims presently on file.

In view of these considerations it is respectfully submitted that the rejection of claims 1-3 and 5-11 under 35 USC 102(b) over the above-discussed reference is overcome and should be withdrawn.

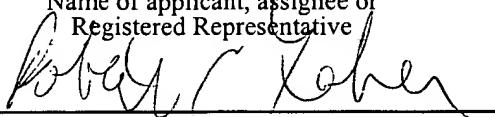
Reconsideration and allowance of the present application are respectfully requested.

In the event the actual fee is greater than the payment submitted or is inadvertently not enclosed or if any additional fee during the prosecution of this application is not paid, the Patent Office is authorized to charge the underpayment to Deposit Account No. 15-0700.

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as First Class Mail in an envelope addressed to: Asst. Commissioner for Patents, Washington, D.C. 20231, on February 28, 2003:

Robert C. Faber

Name of applicant, assignee or  
Registered Representative



Signature

February 28, 2003

Date of Signature

Respectfully submitted,



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**APPENDIX B**  
**VERSION WITH MARKINGS TO SHOW CHANGES MADE**  
**37 C.F.R. § 1.121(b)(iii) AND (c)(ii)**

**CLAIMS:**

1. (Amended) A classifier for segregating particles by size or density, said classifier comprising:

a fluidization chamber adapted to contain a fluidized bed;

fluidization means [adapted to provide] for providing a flow of fluidization fluid into the fluidization chamber; and

one or more inclined plates mounted within the fluidization chamber positioned such that in use, particles elutriated by the fluidization fluid within the chamber are caused to be segregated above or below the plates according to their size or density.